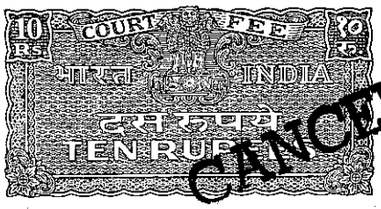

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 275 of 2003.

APPELLANT : Rajiv Lal Baghel S/o Shyamlal Baghel, aged about 22 years, resident of village Bhaisajhar, P.S. Kota, Distt. Bilaspur (C.G.).

V E R S U S

RESPONDENTS : (1) Jhula Ram S/o Shyam Manohar Jaiswal, resident of village Kalmitar, P.O. Ratanpur, Tah. & Distt. Bilaspur (C.G.).

(2) Panch Ram Jaiswal S/o Mangal Ram Jaiswal, resident of village Kalmitar, P.O. Ratanpur, Distt. Bilaspur (C.G.).

(3) Kapil Banjare , resident of village Sewar, P.O. Chakar Bhata Tahsil & Distt. Bilaspur (C.G.).

(4) Branch Manager United India Limited, Branch Bilaspur (C.G.).

P. R. No. 1681/03
Presented by Shri Sunita Jain
dated 21.03.03

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT 1988

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.A.No.275/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	17.12.2003	

Ku. Sunita Jain, counsel for the appellant.

Shri Shrikumar Agrawal with Shri Anand Gupta for respondent no.4/the Insurance Company.

Heard finally.

The appellant filed a claim before the Motors Accident Claims Tribunal on the ground that an accident had occurred on 08.1.2002 while he was sitting on a Tractor Trolley. He was working as labour in the tractor. The non-applicant No.1 was the driver. As a result of this accident he sustained injuries and his leg was shortened. He remained in hospital from 09.1.2002 to 18.1.2002. The Doctors reported on 11.6.2002 that there is 20% of the disability. The claim petition u/s 140 of the Motor Vehicles Act was filed for no fault liability that has been rejected.

Learned counsel for the applicant submits that this is a case where the applicant has sustained permanent injury, the court itself has found that the applicant sustained injured by motor accident as defined under the Act. He remained in hospital from 09.1.20002 to 18.1.2002. He was examined. The Court itself has found that he sustained fracture of pubic

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

bone. The doctor's certificate shows that 20% of the disability was caused to the appellant.

Learned counsel for the appellant relied on a decision reported in 1998 Madhya Pradesh 247 (Babuliya alias Babulal –Vs- Mukesh Kumar). Paragraph 3 of the said judgment is relevant and quoted hereinbelow :

> "3. It is pertinent to note that a poor person cannot afford to be in the hospital for longer time, that does not by itself deprive him of the benefit of benevolent provisions of the Motor Vehicles Act. In number of cases the injuries may be detected lateron and keeping in view the illiteracy prevalent in India in villages, it may not be possible for such victim to produce the medical certificate of the doctor who treated him initially at the stage when his application for interim relief is to be considered. The intention behind legislating this provision of the Act is to give a solace to victim who sustained injuries in the accident. It is for enabling him to disburse the expenses incurred on medical treatment. What is to be seen is that there is nexus between the vehicle involved, accident occurred and the injury sustained by the victim. If the injuries are serious and if there is fracture, while considering the prayer for interim relief made by such victim in view of provisions of Section 95 of the Act, the Court need not go to further details. Afterall the amount will be

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Rs.12,500/- only; that amount may be adjusted at the time of final decision of the claim petition".

Learned counsel for the appellant further relied on a decision reported in 2000(1) Vidhi Bhasvar (Banwarilal Bajoriya V. Satish Kumar and others).

Having considered the facts and circumstances of the case and material on record, the appeal deserves to be allowed. Accordingly, it is allowed.

The amount under no fault liability shall be allowed to be disbursed under Section 140 of Motor Vehicles Act on furnishing security. In case, it is ultimately held that the insurance company is not liable then the amount shall be adjusted under Section 141 of Motor Vehicles Act. otherwise Looking to orders protecting Insurance Company's interest would be jeopardized (Inbuvi).

Consequently I.A.No.10703/2003 for urgent hearing stands disposed of.

Certified copy as per rules.

Sd/-
Fakhruddin
Judge

2000/-

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